

REMARKS

A check in the amount of \$105 is enclosed to cover the official fee for one (1) independent claim in excess of three (3) independent claims.

Claims 39-76 are presently pending in this Application and claims 39-62 and 67-76 are rejected, under 35 U.S.C. § 102 and 35 U.S.C. § 103, while claims 43 and 72 are objected due to informalities therein, but claims 63-66 are merely objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claim(s). The Applicant thanks the Examiner for indicating that claims 63-66 contain allowable subject matter and, in accordance with this indication, claim 63 is amended to be an independent claim including all recitations and limitations of base claim 39 so that independent claim 63 is now believed to be in allowable form. As claims 64-66 depend from claim 63, those claims are likewise believed to be allowable. The Applicant therefore respectfully requests that the Examiner allow claims 63- 66.

Next considering claims 39-62 and 67-76 and the rejections thereof, the Examiner rejects:

- claims 39, 40, 43, 44 and 47 under 35 U.S.C. § 102(b) over Christian et al. '791,
- claim 41 under 35 U.S.C. § 103(a) over Christian et al. '791 and further in view of Willemot et al. '755,
- claims 42, 48, 49, 51 and 70 under 35 U.S.C. § 103(a) over Christian et al. '791 and further in view of Yoshio '963,
- claim 45 under 35 U.S.C. § 103(a) over Christian et al. '791 and Yoshio '963 and further in view of Falkenberg et al. '617,
- claim 46 under 35 U.S.C. § 103(a) over Christian et al. '791 and further in view of Oilar '717,
- claim 50 under 35 U.S.C. § 103(a) over Christian et al. '791 and Yoshio '963 and further in view of Willemsen '889,
- claim 52 under 35 U.S.C. § 103(a) over Christian et al. '791 in view of Gerhard '626,
- claims 53, 54, 56, 67 and 68 under 35 U.S.C. § 103(a) over Christian et al. '791 in view of Hung et al. '625,

- claim 55 under 35 U.S.C. § 103(a) over Christian et al. '791 and Hung et al. '625 in view of Bishop et al. '088,

- claims 57-60 under 35 U.S.C. § 103(a) over Christian et al. '791 as applied to claim 39 in view of Kadouri et al. '390,

- claim 61 under 35 U.S.C. § 103(a) over Christian et al. '791 and Kadouri et al. '390 in view of Yoshio et al. '963,

- claim 62 under 35 U.S.C. § 103(a) over Christian et al. '791 and Kadouri et al. '390 in view of Schwarz et al. '279,

- claim 67 under 35 U.S.C. § 103(a) over Christian et al. '791 in view of DiMilla et al. '542,

- claim 71 under 35 U.S.C. § 103(a) over Christian et al. '791 in view of Schwarz et al. '279,

- claim 72 under 35 U.S.C. § 103(a) over Christian et al. '791 and Schwarz et al. '279 in view of Knappe et al. '312,

- claim 73 under 35 U.S.C. § 103(a) over Christian et al. '791 in view of Matsuo et al. '548, and

- claim 74 under 35 U.S.C. § 103(a) over Christian et al. '791 in view of Anderson et al. '913.

While the Applicant concurs that certain of the cited references may have some relevance to the invention as recited in the claims, the Applicant also respectfully disagrees with the Examiner's interpretation and application of at least certain ones of the cited references to some of the claims and accordingly respectfully traverses at least certain of the rejections for the following reasons.

For these reasons, therefore, certain claims are amended herein to more explicitly point out and recite the fundamental distinctions of the present invention over the cited prior art, and certain claims are canceled, without prejudice, to reduce the number of issues and accordingly to simplify the prosecution of this Application. It should be recognized and understood, however, that the cancellation of the certain of the claims is solely to expedite prosecution of

this Application with the remaining claims and must not be taken as concurrence with or concession to the Examiner's present position regarding those claims and the cited prior art.

Claims 39, 40, 42, 43, 44, 45, 47, 48, 49, 51 and 70 are rejected over a combination or combinations of Christian et al. '791, Yoshio '963 and Falkenberg et al. '617. After a thorough review of claims 39, 40, 42, 43, 44, 45, 47, 48, 49, 51 and 70 and Christian et al. '791, Yoshio '963 and Falkenberg et al. '617, the Applicant elects to amend this group of claims to more clearly recite the fundamental and patentable distinctions between the invention, as recited in these claims, and the teachings and disclosures of Christian et al. '791, Yoshio '963 and Falkenberg et al. '617, either taken individually and in any permissible combination with one another.

Amended 42 now includes the recitations and limitations of original base claim 39 as well as additional limitations which help distinguish the presently claimed invention over the applied art. Claims 49-51 each ultimately depend from amended claim 42.

In distinction over the cited prior art, that is, Christian et al. '791, Yoshio '963 and Falkenberg et al. '617, it will be noted that Christian et al. '791 does not teach, suggest, disclose or hint at a receptacle having upper and lower lids or ends and does not teach, suggest, disclose or hint a receptacle having input and output bores in the upper and lower lids or ends but instead teaches only a receptacle having a single, upper lid.

While Yoshio '963 teaches a receptacle having upper and lower ends or lids separated by a cylindrical section, it must be noted that Yoshio '963 explicitly and specifically describes a high pressure chamber that requires threaded brackets or rods to fix the end caps or plates to the cylindrical section. In this regard, it is apparent, and in complete agreement with Yoshio '963, that because of the intended use of the chamber as a high pressure chamber, the lids cannot be threadedly engaged onto the middle section, as recited in amended claim 42, because threaded connections and, in particular, threaded sections having sealing rings, could not reliably withstand the anticipated pressures.

Falkenberg et al. '617, in turn, does teach, suggest, disclose or hint a receptacle having a central cylindrical section with two end caps threaded thereon. In contrast with the present invention as recited in amended claim 42, however, the central section of Falkenberg et al. '617

does not form a single receptacle chamber but instead forms two chambers separated by a dialysis membrane, one being a cell growth chamber and the other being a chamber for holding nutrients, thereby comprising a very different type of chamber from that of the present invention as recited in amended claim 42. In addition, it must be noted that the Falkenberg et al. '617 receptacle does not, in fact, have input and output bores in the end caps because the openings through the end cap are respectively closed by a disk 10 and a membrane 11. Further in this regard, it must be noted that the dialysis membrane 9, separating the two chambers of the central part of the receptacle, allows only the flow of certain elements between the two chambers, such as gases in one direction and nutrients in the other, so that again there is no flow path, as contemplated by the present invention, through the chambers.

It is, therefore, the Applicant's belief and position that Christian et al. '791, Yoshio '963 and Falkenberg et al. '617, whether taken individually or in any permissible combination, do not teach, suggest, disclose and/or hint the present invention as recited in claim 42, and thereby that claim, as well as all the claims dependent thereon, are patentable over the applied combinations of Christian et al. '791, Yoshio '963 and/or Falkenberg et al. '617 and the raised rejections of such claims, 35 U.S.C. § 102 and/or 35 U.S.C. § 103, should be withdrawn. The Applicant accordingly respectfully requests that the Examiner reconsider and allow amended claim 42 and all claims dependent thereon.

Next considering the rejection of claim 52, under 35 U.S.C. § 103(a), over Christian et al. '791 in view of Gerhard '626, it will first be noted that claim 52 is amended to be an independent claim which incorporates all of the recitations and limitations of base claim 39 and the language of claim 52 is also amended to clarify the limitations recited therein.

Therefore considering amended claim 52 in light of Christian et al. '791 in view of Gerhard '626, it is clear that the original rejection of claim 52 is dependent upon the Examiner's interpretation of the structure taught by Gerhard '626 as being similar to that recited in original claim 52, that is, one or more tensioning rings around the upper lid for introducing rolling or turning movements for the receptacle and the last least one upper lid.

It is also clear, however, that the original recitations of claim 52 did not clearly and explicitly express the limitations claimed therein. That is, the limitation intended to be

expressed in claim 52 and described, for example, at paragraph [061], wherein it is stated that "[i]n addition, FIG. 9 shows two lateral tensioning rings 15 which are pushed round the container-like receptacle 1 and the lid 3 in the arrow direction so that the unit consisting of receptacle 1 and lid 3 can be turned or rolled in arrow direction 16 about the transverse axis with the aid of a turning or rolling means (not shown)". The rings referred to in claim 52 are thereby resilient tensions rings that encircle the receptacle and, in particular, the upper and the upper and lower lids, so retain the upper and the lower lids so that the receptacle can be rotated about its horizontal axis. Claim 52 is amended to more clearly state and recite this limitation.

In fundamental contrast from the present invention as recited in claim 52, the teachings of Gerhard `626 are directed to a method and structure for fixing a cylindrical railway tank car tank onto a railway car chassis so that the tank cannot rotate or otherwise move. The structure described by Gerhard `626 are "saddle pieces" welded to the ends of the cylindrical tank and providing attachment and bearing points whereby a number of non-resilient steel cables can be woven between the cylindrical tank and the car chassis to rigidly hold the tank in place on the chassis.

It is, therefore, very apparent that the structure, recited in claim 52 as amended herein above and as described in the specification, is fundamentally different in structure, operation and purpose from that taught by Gerhard `626 under the requirements and provisions of both 35 U.S.C. § 102 and/or 35 U.S.C. § 103. The Applicant accordingly respectfully requests that the Examiner reconsider and withdraw all rejections of amended claim 52, and allow that amended claim.

Lastly considering the group of claims including claims 53, 54, 55, 56, 67 and 68, which were rejected, under 35 U.S.C. § 103(a), over combinations of Christian et al. `791, Hung et al. `625 and Bishop et al. `088, this group of claims is directed to a receptacle for growing cells that includes a receptacle pressuring means that is a part of the receptacle.

Christian et al. `791 relates to a cell growing container, but without any associated or included means for pressurizing the container, while Bishop et al. `088 relates to a pump mechanism that could be used to apply pressure to a cell growth container and that includes a check valve. The mechanism of Bishop et al. `088 is entirely external to and separate from

the cell growth container. The combination of Christian et al. '791 and Bishop et al. '088, therefore, does not teach, suggest, disclose or hint at the present invention as recited in the group of claims in questions and it therefore appears that the Examiner is relying on Hung et al. '625 to provide a required teachings of a pump mechanism that is incorporated into the cell growth chamber.

It must be noted, however, that the piston pump mechanism taught by Hung et al. '625 is not, in fact, included within and part of the structure of the cell growth container but is instead a separate mechanism that is only directly and rigidly connected to the cell growth chamber, and that the recitations of the claims in question are amended to clarify and explicitly recite this distinction.

It is, therefore, apparent that there are a number of fundamental distinctions between the presently claimed invention and the teachings of Christian et al. '791, Bishop et al. '088 and/or Hung et al. '625 and the group of claims comprising claims 39, 53, 54, 55, 56, 67 and 68 are accordingly amended to more explicitly recite these distinctions. In particular, the recitations of claim 39 are incorporated into claim 67, which is rewritten into independent form, and that claim also includes the further elements of claims 54-67. As such, it is respectfully submitted that claim 67, and all claims dependent thereon, are now in a condition for allowance.

If any further amendment to this application is believed necessary to advance prosecution and place this case in allowable form, the Examiner is courteously solicited to contact the undersigned representative of the Applicant to discuss the same.

In view of the above amendments and remarks, it is respectfully submitted that all of the raised rejection(s) should be withdrawn at this time. If the Examiner disagrees with the Applicant's view concerning the withdrawal of the outstanding rejection(s) or applicability of the Christian et al. '791, Willemot et al. '755, Yoshio '963, Falkenberg et al. '617, Oilar '717, Willemsen '889, Gerhard '626, Hung et al. '625, Bishop et al. '088, Kadouri et al. '390, Schwarz et al. '279, DiMilla et al. '542, Knappe et al. '312, Matsuo et al. '548 and Anderson et al. '913, references, the Applicant respectfully requests the Examiner to indicate the specific passage or passages, or the drawing or drawings, which contain the necessary teaching, suggestion and/or disclosure required by case law. As such teaching, suggestion

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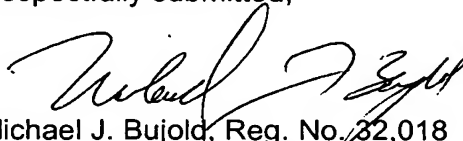
and/or disclosure is not present in the applied references, the raised rejection should be withdrawn at this time. Alternatively, if the Examiner is relying on his/her expertise in this field, the Applicant respectfully requests the Examiner to enter an affidavit substantiating the Examiner's position so that suitable contradictory evidence can be entered in this case by the Applicant.

In view of the foregoing, it is respectfully submitted that the raised rejection(s) should be withdrawn and this application is now placed in a condition for allowance. Action to that end, in the form of an early Notice of Allowance, is courteously solicited by the Applicant at this time.

The Applicant respectfully requests that any outstanding objection(s) or requirement(s), as to the form of this application, be held in abeyance until allowable subject matter is indicated for this case.

In the event that there are any fee deficiencies or additional fees are payable, please charge the same or credit any overpayment to our Deposit Account (Account No. 04-0213).

Respectfully submitted,



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